

## **REMARKS**

Upon entry of this amendment, claims 1-17, 19, 21 and 22 are all the claims pending in the application. Claims 18 and 20 are canceled by this amendment.

Applicants note that a number of editorial amendments have been made to the specification and abstract for grammatical and general readability purposes. No new matter has been added.

### **I. Claim Rejections under 35 U.S.C. § 101**

The Examiner has rejected claims 1-7 and 15-20 under 35 U.S.C. § 112, first paragraph as being directed to non-statutory subject matter. In particular, the Examiner asserts that claims 1-7 and 15-20 are directed to an optical disk including only non-functional descriptive material.

Applicant notes that MPEP § 2106(IV) discusses the guidelines for determining whether or not a computer-related invention is patentable subject matter under 35 U.S.C. §101. This section indicates that "[d]escriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material". In particular, as explained in MPEP § 2106(IV)(B)(1), "non-functional descriptive material" includes music, literary works and a compilation or mere arrangement of data, whereas "functional descriptive material" includes a data structure which imparts functionality when employed as a computer component.

As explained in MPEP § 2106(IV)(B)(1), a “data structure” is defined as “a physical or logical relationship among data elements, designed to support specific data manipulation functions.” As further set forth in MPEP 2106(IV)(B)(1), when functional descriptive material

(e.g., a data structure) is claimed as being recorded on a computer-readable medium, the claim will be considered statutory.

Applicant respectfully submits that claim 1 clearly includes a data structure (i.e., a physical or logical relationship among data elements, designed to support specific data manipulation functions) which imparts functionality when employed as a computer component, and therefore, Applicant submits that claim 1 is statutory based on the guidelines set forth in the MPEP.

For example, regarding claim 1, Applicant notes that this claim has been amended to recite that the optical disc is readable by a reproduction apparatus, the reproduction apparatus being operable to perform random access to moving image data in accordance with reproduction section information.

In addition, claim 1 recites the features a duplicating part which is obtained by duplicating an end vicinity of the preceding reproduction section and a beginning vicinity of the subsequent reproduction section; and a flag, which if set to be on, indicates reproduction of a part before the end vicinity and a part after the beginning vicinity via the duplicated part, and if set to be off, indicates sequential reproduction of the preceding reproduction section and the subsequent reproduction section without using the duplicated part.

In view of the foregoing features set forth in claim 1, Applicant respectfully submits that there is clearly a logical relationship between the data elements stored on the optical disc that is used to support specific data manipulation functions.

For example, because the state of the “flag” (i.e., on or off) in claim 1 is used to determine how reproduction will proceed (i.e., reproduction of a part before the end vicinity and

a part after the beginning of the vicinity via the duplicated part, or sequential reproduction of the preceding reproduction section and the subsequent reproduction section without using the duplicated part), Applicant respectfully submits that such data elements are clearly being used to support a specific data manipulation function; namely, to determine how data reproduction will proceed.

Accordingly, Applicant respectfully submits that claim 1 clearly includes a data structure (i.e., a physical or logical relationship among data elements, designed to support specific data manipulation functions), and cannot merely be considered nonfunctional descriptive material such as "music" or a "literary work".

In view of the foregoing, Applicant respectfully submits that claim 1 is directed to statutory subject matter according to the guidelines set forth in the MPEP. Therefore, Applicant kindly requests that the rejection of claim 1 be reconsidered and withdrawn. Claims 2-7 depend from claim 1 and are there considered patentable at least by virtue of their dependency.

Regarding claim 15, Applicant notes that this claim is drawn to an optical disc to be read by a reproduction apparatus, the reproduction apparatus being operable to perform random access to moving image data in accordance with reproduction section information, the optical disc storing: at least one piece of the moving image data; a duplicated part obtained by duplicating a part of the moving image data; and a flag, wherein the flag, if set to be on, indicates reproduction of before and after the moving image data via the duplicated part, and if set to be off, indicates reproduction of the moving image data without using the duplicated part.

For at least similar reasons as discussed above with respect to claim 1, Applicant respectfully submits that claim 15 is directed to statutory subject matter according to the

guidelines set forth in the MPEP. Accordingly, Applicant kindly requests that the rejection of claim 15 be reconsidered and withdrawn. Claim 16 depends from claim 1 and is there considered patentable at least by virtue of its dependency.

Regarding claims 17 and 19, Applicant notes that each of these claims, as amended, is drawn to a “program embodied on a computer-readable medium” that causes a computer to perform a particular method. Accordingly, Applicant respectfully submits that these claims are considered statutory under 35 U.S.C. § 101 based on the guidelines set forth in the MPEP (see, e.g., MPEP § 2106(IV)(B)(1)(a)). Due to the changes made to claims 17 and 19, Applicant notes that claims 18 and 20 have been canceled by this amendment.

In view of the foregoing, Applicant respectfully submits that claims 1-7 and 15-20 are drawn to statutory subject matter under 35 U.S.C. § 101. Accordingly, Applicant kindly requests that the rejection be reconsidered and withdrawn.

Further, Applicant notes that in addition to the above-noted changes made to claims 1, 15, 17 and 19, a number of minor editorial changes have been made thereto for improved clarity and to place these claims in better U.S. form. Such changes have not been made to narrow the scope of protection of the claims or to address issues related to patentability.

## **II. Allowable Subject Matter**

Applicant thanks the Examiner for indicating that claims 8-14, 21 and 22 are allowed.

Applicant notes that a number of minor editorial changes have been made to claims 8, 13, 21 and 22 for improved clarity and to place these claims in better U.S. form. Such changes have not been made to narrow the scope of protection of the claims or to address issues related to

patentability. Applicant respectfully submits that claims 8-14, 21 and 22 are in condition for allowance.

### **III. Conclusion**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may best be resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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